

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 810

Introduced by Senator Burton
(Principal coauthor: Assembly Member Nation)

February 21, 2003

~~An act to amend Section 4528 of the Public Resources Code, relating to natural resources. An act to amend Sections 4514.3, 4582.7, and 4582.75 of, and to add Section 4582.71 to, the Public Resources Code, relating to natural resources.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 810, as amended, Burton. Natural resources: ~~Z'berg-Nejedly Forest Practice Act of 1973~~ timber harvesting.

(1) Existing law exempts timber operations from specified waste discharge requirements if the federal Environmental Protection Agency certifies that provisions of the Z'berg-Nejedly Forest Practice Act of 1973 constitute the best management practices for silviculture pursuant to the Federal Water Pollution Control Act.

This bill would require both the federal Environmental Protection Agency and the State Water Resources Control Board to make that certification. This bill would also require the timber operations to be conducted in a manner that complies with the applicable regional water quality control plan.

(2) The Forest Practice Act prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The Forest Practice Act provides that the Director of Forestry and Fire Protection has the final authority to

determine whether a timber harvesting plan conforms with rules and regulations pertaining to timber harvesting.

This bill would provide that the federal Environmental Protection Agency, the State Water Resources Control Board, and the appropriate California regional water quality control board have that authority for purposes of determining whether timber operations are exempt from specified waste discharge requirements.

(3) This bill would provide that if a watercourse has been classified as impaired due to sediment, as specified, a timber harvesting plan may not be approved in that watershed unless the appropriate regional water quality control board has certified that the timber operations proposed in the plan will not result in a discharge in violation of the regional water quality control plan and that the rate of timber harvesting in the watershed is consistent with, and would not impede recovery of, the beneficial uses of the impaired watercourse as specified in the regional water quality control plan.

(4) Existing law provides that rules adopted by the State Board of Forestry and Fire Protection shall be the only criteria employed by the director when he or she reviews timber harvesting plans, as specified.

This bill would require that the provisions of the Forest Practice Act also apply to that review.

~~The existing Z'berg-Nejedly Forest Practice Act of 1973 defines "stream" for purposes related forest resources and timberlands as a natural watercourse as designated by a solid line or dash and three dots symbol shown on the largest scale United States Geological Survey map most recently published.~~

~~This bill would, instead, define "stream" as any surface water or groundwater, including saline waters, within the boundaries of the state, for purposes of the Forest Practice Act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 4528 of the Public Resources Code is~~
- 2 ~~SECTION 1. Section 4514.3 of the Public Resources Code is~~
- 3 ~~amended to read:~~
- 4 4514.3. (a) Timber operations conducted pursuant to this
- 5 chapter are exempt from the waste discharge requirements of
- 6 Article 4 (commencing with Section 13260) of Chapter 4 of

1 Division 7 of the Water Code; ~~provided, that there is a certification~~
2 ~~by as long as both~~ the federal Environmental Protection Agency
3 ~~and the State Water Resources Control Board~~ certify that the
4 provisions of this chapter constitute best management practices for
5 silviculture pursuant to Section 208 of the Federal Water Pollution
6 Control Act ~~and the timber operations are conducted in a manner~~
7 ~~that complies with the applicable regional water quality control~~
8 ~~plan, as determined by the appropriate regional water quality~~
9 ~~control board.~~

10 (b) The exemption contained in subdivision (a) ~~shall~~ does not
11 apply when any of the following occurs:

12 (1) The board requests issuance of waste discharge
13 requirements.

14 (2) There has been a finding by the State Water Resources
15 Control Board that the board has failed to maintain a water quality
16 regulatory process consistent with the certification required under
17 subdivision (a).

18 (3) After monitoring the water quality impacts from timber
19 operations conducted in compliance with this chapter, there has
20 been a finding by the State Water Resources Control Board that
21 compliance with best management practices would result in less
22 water quality protection than required in water quality control
23 plans approved pursuant to Section 13245 of the Water Code.

24 SEC. 2. Section 4582.7 of the Public Resources Code is
25 amended to read:

26 4582.7. (a) The director shall have 30 days from the date that
27 the initial inspection is completed; (10 of these days shall follow
28 the date of final interagency review) or, if the director determines
29 that the inspection need not be made, 15 days from the date of
30 filing, as specified in Section 4604, or a longer period mutually
31 agreed upon by the director and the person submitting the timber
32 harvesting plan, to review the plan and take public comments.
33 After the final review and public comment period has ended, the
34 director shall have up to 15 working days, or a longer period
35 mutually agreed upon by the director and the person submitting the
36 plan, to review the public input, to consider recommendations and
37 mitigation measures of other agencies, to respond in writing to the
38 issues raised, and to determine if the plan is in conformance with
39 the rules and regulations of the board and with this chapter.

(b) If the director determines that the timber harvesting plan is not in conformance with the rules and regulations of the board or with this chapter, the director shall return the plan, stating his or her reasons in writing, and advising the person submitting the plan of the person's right to a hearing before the board, and timber operations ~~shall~~ *may* not commence.

(c) A person to whom a timber harvesting plan is returned may, within 10 days from the date of receipt of the plan, request of the board a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if the plan is in conformance with the rules and regulations of the board and with this chapter. Timber operations shall await board approval of the plan. Board action shall occur within 30 days from the date of the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal.

(d) If the timber harvesting plan is not approved on appeal to the board, the plan may be found to be in conformance by the director within 10 days from the date of the board action, provided that the plan is brought into full conformance with the rules and regulations of the board and with this chapter. If the director does not act within 25 days, or a longer period mutually agreed upon by the director and the person submitting the plan, timber operations may commence pursuant to the plan, and all provisions of the plan shall be followed as provided in this chapter.

(e) Upon the request of a responsible agency, the director shall consult with that agency, pursuant to this chapter, but the director, or his or her designee within the department, shall have the final authority to determine whether a timber harvesting plan is in conformance with the rules and regulations of the board and with this chapter, *except as provided in Section 4514.3.*

SEC. 3. *Section 4582.71 is added to the Public Resources Code, to read:*

4582.71. *If a watercourse has been classified as impaired due to sediment pursuant to subsection (d) of Section 303 of the Federal Water Pollution Control Act, a timber harvesting plan may not be approved in the watershed of the impaired watercourse unless the appropriate regional water quality control board has certified that the timber operations proposed in the plan will not result in a discharge in violation of the regional water quality control plan and that the rate of timber harvesting in the watershed*

1 of the impaired watercourse, including the timber operations in the
2 proposed timber harvesting plan, is consistent with, and would not
3 impede recovery of, the beneficial uses of the impaired
4 watercourse as specified in the regional water quality control plan.

5 SEC. 4. Section 4582.75 of the Public Resources Code is
6 amended to read:

7 4582.75. The rules adopted by the board *and the provisions of*
8 *this chapter* shall be the only criteria employed by the director
9 when reviewing timber harvesting plans pursuant to Section
10 4582.7.

11 ~~amended to read:~~

12 ~~4528.—As used in this chapter:~~

13 ~~(a) “Basal area per acre” means the sum of the cross-sectional~~
14 ~~areas at breast height of the tree stems of commercial species per~~
15 ~~acre.~~

16 ~~(b) “Countable tree” means a tree that can be used in~~
17 ~~calculating the degree of stocking under the following criteria:~~

18 ~~(1) The tree must be in place at least two growing seasons.~~

19 ~~(2) The tree must be live and healthy.~~

20 ~~(3) The tree must have at least one-third of its length in live~~
21 ~~crown, except in pure stands of Douglas fir the tree must have at~~
22 ~~least one-fourth of its length in live crown.~~

23 ~~(4) The tree must be a commercial species from a local seed~~
24 ~~source or a seed source that the registered professional forester~~
25 ~~determines will produce commercial trees physiologically suited~~
26 ~~for the area involved.~~

27 ~~(c) “Stocking” means a measure of the degree to which space~~
28 ~~is occupied by well distributed countable trees.~~

29 ~~(d) “Site classification” means the classification of productive~~
30 ~~potential of timberland into one of five classes by board regulation,~~
31 ~~consistent with normally accepted forestry practices. Site I shall~~
32 ~~denote sites of highest productivity, site II and site III shall denote~~
33 ~~sites of intermediate productivity potential, and site IV and site V~~
34 ~~shall denote sites of lowest productivity potential.~~

35 ~~(e) “Fuel break” means a strip of modified fuel to provide a~~
36 ~~line from which to work in the control of fire.~~

37 ~~(f) “Stream” means waters of the state, as defined by~~
38 ~~subdivision (e) of Section 13050 of the Water Code.~~